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C O N F I D E N T I A L SECTION 01 OF 04 PANAMA 001711

SIPDIS

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SUBJECT: UNHCR UNHAPPY WITH PANAMANIAN REFUGEE POLICY

Classified By: CDA LUIS ARREAGA FOR REASONS 1.4 (B) AND (D).

Summary

1. (C) UNHCR Representative Gonzalo Vargas Llosa believes the Torrijos government is starting down the same path as the previous Moscoso administration in failing to meet its international obligations under the 1951 UN Refugee Convention. One never-ending issue is that the Government of Panama (GOP) believes its own immigration law trumps whatever the Convention requires. In recent meetings with PolOffs Vargas Llosa accused the GOP of endless foot-dragging in resolving refugee issues and noted a slowing of efforts since the start of 2005. He believes Panama trumpets its fear of large refugee inflows as an excuse to avoid meeting minimum international standards, while trying to leverage its relatively tiny refugee population to demand international aid. Vargas said Foreign Ministry (MFA) officials are the chief "culprits" in Panamanian procrastination and questioned why the GOP sees refugees as a foreign policy issue at all. He also argued that the USG, as the largest donor to UNHCR's budget, could help convince Panama to resolve its refugee issues. Vargas also is frustrated by the unresolved status of 800 Central American refugees present in Panama for over 20 years and by the GOP's refusal to properly process several Cuban refugees in late 2004 and to grant them refugee status. The GOP believes special legislation will resolve the problem by year's end but Embassy doubts that will provide a long-term fix. Panama's vacillations on refugees largely stem from fear and resentment of Colombia, its giant, violent neighbor. End summary.

Loss of Momentum on Refugee Issues

2. (C) In recent meetings with PolOffs, Panama UNHCR chief Gonzalo Vargas Llosa, who departs his position on September 15, said the GOP improved its handling of refugees during the last 2-3 years. (Note: UNHCR plans to replace Vargas Llosa with Bolivian national Jose Euseda. End note.) According to combined USG, NGO, and UNHCR pressure, the GOP gave UNHCR guaranteed access to refugees, opened a dialog with the UN and NGOs, and reactivated the Oficina Nacional para Atencion del Refugiado (ONPAR). The new GOP, which took office on September 1, 2004, showed even more interest in resolving refugee issues. But Vargas believes progress halted at the beginning of 2005, as processing of asylum applications slowed down. ONPAR, which is supposed to meet quarterly, has met only once in 2005. Vargas says GOP officials have convinced themselves that Panama will be swamped by refugees if they liberalize refugee policies. He faults the GOP's "lack of political will" to achieve a solution.

Modern History of Panama's Refugee Problem

3. (SBU) During 1997-1998, due to pressure from Colombian FARC guerrillas, 500-600 Colombian villagers fled to Panama's remote, Darien frontier province. Occasional refugees still arrive in the region but UNHCR doesn't have exact figures available and plans to visit the area in September to do a census. Unwilling to consider the Colombians as legitimate refugees, Panama granted them three-month renewable temporary protection status as "temporarily displaced persons" by executive decree. ONPAR gave the Colombians ID cards but does not permit them to work or to leave their villages, much less the region. Since 1998, the refugees have depended on UNHCR (working out of Venezuela) for health care, rent, food, and clothing.

A Second Forced Repatriation Narrowly Averted

4. (SBU) In April 2003, apparently in breach of internationally accepted procedures, Panama returned 109 refugees to Colombia in what UNHCR and many NGOs derided as a "forced" repatriation. In November 2003, Panama planned a repatriation of a further 70 families to Colombia without coordinating with UNHCR. At Embassy's insistence, Panama at the last minute agreed to bring UNHCR into the repatriation process and the families were repatriated to Colombia in

December 2003. After protracted negotiations, UNHCR opened a Panama City office in April 2004. In December 2004, GOP denied refugee status to three Cubans who entered Panama in the Darien. Vargas Llosa claimed that at least one Cuban was deported without being interviewed, which he called a clear breach of Panama's international obligations. Partly out of frustration with the GOP's reluctance to regularize the Colombians' status, in July 2005 UNHCR ended food distribution to concentrate on sustainable development, such as small business grants (for seamstresses, bakeries, and cooks), agricultural loans and is building houses to replace wooden shacks.

MFA Delaying Tactics

15. (C) Vargas believes the MFA is manufacturing delays to hinder resolving refugee issues, just as it did under the previous Moscoso administration. Vargas claimed that MFA Legal Affairs Director Iana Iana Quadri and MFA officials Vladimir Franco, and Ivette Quiel are responsible for the delays and accused them of hijacking and weakening ONPAR. After four-and-a-half years of discussion, in January 2005 ONPAR approved regularization of the Central Americans by executive decree. But Vargas's satisfaction quickly turned to annoyance when Quadri then decided that that a new law was needed instead of an executive decree. MFA also wants special legislation for the displaced Colombians in Darien. Vargas sees that as delaying tactics. Although ONPAR reports to the Ministry of Government and Justice (MOGJ), MFA uses its status as refugee commission member to influence ONPAR's decisions. He speculates that Quadri, a naturalized Chilean refugee, wants to appear tough on refugees. (Comment: There is little love lost between Quadri, a Chilean, and Vargas Llosa, an English-educated Peruvian with a famous last name. End comment.)

Central American Refugee Issues

16. (SBU) Vargas Llosa also complained that Panama has not granted permanent residence status to 800 refugees from Nicaragua and El Salvador present in Panama for over 20 years, allegedly in breach of Panama's international obligations. Vargas described a case he had presented to the GOP involving a man who had lived in Panama for 30 years, still in refugee status, unable to open bank accounts or obtain credit. As a non-permanent resident he has no permanent legal status in Panama and cannot obtain a driver's license or credit or sign his name to legal documents. There are hundreds of others like him.

What Does Panama Gain by Delay?

17. (SBU) Vargas implied that Panama wants to delay regularizing the Colombians, hoping to leverage the situation to receive international assistance. At a bilateral Colombia-Panama meeting Vargas attended in late May, Panamanian MFA Foreign Relations Director Dario Chiru insisted that regularizing the 500 displaced Colombians should be tied to a frontier development plan and that the international community -- Colombia included -- should pay. According to Vargas, none of those conversations appeared in the official record of the meeting. (Note: At a May 2005 conference in Bogota, the Governments of Panama and Colombia, UNHCR, and the International Migration Organization (OIM) pledged \$300,000 to Panama for resettlement assistance. End note.)

MFA's Point of View

18. (SBU) In June, PolOfs met with Iana Quadri to discuss refugee issues. Quadri explained the need for new laws to regularize both Colombians and Central American refugees. (Comment: The new laws may be introduced as a rider to a larger Immigration bill. Many of UNHCR's criticisms could be met by a new law, although it only would offer a one-time fix. Any future refugees entering Panama would be subject to the same problems and delays. End Comment.) Quadri argued that many of the Colombians no longer would qualify as refugees due to improving conditions in Colombia and that they should be subject to Panamanian immigration law if they choose not to return to Colombia.

ONPAR Confirms UNHCR Need For Legislation

19. (SBU) In late July PolOff and Pol Specialist met with ONPAR Director Pablo Perez on refugee issues. Under Panamanian law, Perez confirmed, refugees cannot become permanent residents or citizens of Panama. Perez said Panama did not grant refugee status to the Colombians in 1998 because the Darien was a "no-man's land" that neither Panama or Colombia could control. Granting refugee status in his

opinion would have encouraged a massive inflow from Colombia. According to Perez, the Colombian Army's presence near the border now prevents an inflow of refugees.

10. (SBU) Perez downplayed Vargas's concerns about the Central Americans and provided a more sanguine view. He pointed out that ONPAR works with Immigration authorities to issue identification cards which allows them to live and work legally in Panama. According to Perez, refugees can open bank accounts and obtain credit if they meet a bank's normal criteria, i.e. hold a steady job and pay taxes. Immigration assists many refugees by providing them with letters for banks certifying their refugee status. Refugees annually must renew their status through ONPAR and Immigration to obtain new ID cards.

With A Little Help From My Friends...

11. (SBU) In a July meeting, Vargas told POL Counselor that UNHCR needs a little "help from its friends, like the United States." He believes that as the U.S. supplies 25% of UNHCR's budget for Panama (\$150,000 in 2005), it should try to shape policy in the organization. POL Counselor offered to invite Bogota PRM representative to travel to Darien with Vargas to see the situation first hand. (Note: PolOff is planning a visit to the Darien with Vargas Llosa in early-September. End note.)

"Poor Communication" To Blame?

12. (SBU) In an August 4 meeting, MFA Officials Chiru, Franco, Quiel and Migration Sub-Director Carmelo Gonzalez told PolOff and Pol Specialist that poor communication with UNHCR was mostly to blame for creating misunderstandings about refugees. Franco pointed out that the Colombian refugees live in conditions no worse than many Panamanians in the Darien. The officials also contended that UNHCR does not understand Panamanian law or their personal liability if they do not obey it. Gonzalez cited the inability of many Darien refugees to prove their identity and citizenship as an important delaying factor, despite help from a Colombian consular officer based in the Caribbean border town of Puerto Obaldia. Franco also spoke of Panama's ongoing concern about a large inflow of refugees to the Darien from Colombia and the potential overwhelming impact on public services such as schools in the region.

13. (SBU) Franco explained that the GOP first saw the need for special legislation to resolve the Colombian and Central American refugee issue in 2003. The 2004 Presidential election campaign then intruded. When the ruling Arnulfista party lost the election, the issue was left for the new Torrijos government to resolve. The GOP officials agreed the legislative assembly will approve a bill granting regular status to the Colombian and Central American refugees before the end of 2005. In the case of the Central Americans, Quadri said the Refugee Commission never reached a decision on whether a new law was needed and that the Procuraduria (Attorney General) had not yet given advisory opinion.

Comment

14. (C) There are several reasons for Panamanian foot-dragging on refugees. With the exception of blowback following the April 2003 "forced" repatriation of Colombians, Panama has paid little or no price for violating its international agreements. The all-but-inaccessible Darien province is under-populated and remote and the problems of Colombian refugees can be easily ignored. Also, time has softened some issues. Many Colombians -- who are culturally and physically indistinguishable from the locals -- are now married to Panamanians.

15. (C) At root, Panamanians resent spending money to help Colombians, who they see as coming from a much richer, more powerful country. They feel threatened by and resent the 100,000-200,000 Colombians who live illegally in Panama City, who they suspect are taking jobs from Panamanians. They fear being swamped by Colombians arriving at Tocumen airport claiming refugee status. That may explain why, according to UNHCR, GOP officials routinely return such persons to Colombia without interviews. Meanwhile, Panama detains scores of other Colombians for months at a time in squalid conditions at Panama's crowded Immigration Jail until they finally ask to be deported. Calls by Panamanian officials for better communication with UNHCR may not be fully ingenuous.

16. (C) When GOP officials are asked why Panama does not follow the 1951 UN Convention on Refugees, which Panama ratified in 1977, they cite contradictions between it and Panamanian law and the GOP's position that Panamanian law has precedence over international agreements. UNHCR argues, on

the contrary, that Panamanian law legally obligates the GOP to follow the UN Convention and that Panama currently is out of compliance with its own laws on the granting of asylum.

17. (C) Attitudes about Colombia do not explain Panama's slowness to resolve the status of its Central American refugees, who, along with the Colombians, also require full integration into society. GOP attitudes toward Cubans may reflect sensitivities of a government with more pro-Cuba voices than the last one, one which also is eager to reestablish relations with Cuba following the rupture of August 2004. Embassy will monitor the proposed legislation. Whether or not it resolves the existing problems, the new law will be tailor-made to fix an existing problem. It will not resolve issues related to future inflows of refugees to Panama.

ARREAGA